

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO. 24216 of 2003

Between:

P.Meghanath Reddy, s/o Narayana Reddy, 73 years,
R/o 4-1-3, Hayath Nagar Village & Mandal,
Ranga Reddy District.

...PETITIONER

AND

1. Hyderabad Urban Development Authority, 1-8-323, Paiga Place, Police Lines, Secunderabad, rep.by its Vice-Chairman.
2. L.B.Nagar Municipality, Saroornagar, Ranga Reddy District, rep.by its Commissioner.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions declaring the action of the first respondent in not releasing the Final Layout in respect of the Draft Layout No.3957/MP2/HUDA/2000 dated 13-09-2001 along with the mortgaged property, on the ground of pendency of the O.S.No.699/2002 on the file of Principal Junior Judge, (East and North), Ranga Reddy District as arbitrary, illegal and unconstitutional and to issue a consequential direction to the first Respondent to release the Final Layout forthwith.

Counsel for the Petitioner: MR.V.SRINIVAS

Counsel for the Respondent No.1: MR.B.VISWANATHA REDDY, Standing Counsel.

Counsel for the Respondent No.2: MR.THIMMA REDDY, Standing Counsel for Municipalities.

The Court made the following:

ORDER:

The petitioner and his family members are the owners of land admeasuring Acs.7.50 in Survey Nos.24/1 and 25P of Khalsa Hayath Nagar. So as to develop the land into house plots, they submitted a layout to Hyderabad Urban Development Authority (HUDA), the first respondent. After considering the application, the first respondent sanctioned draft layout approval on 30.09.2001, subject to the petitioner mortgaging 1/4th of the land. The petitioner did accordingly, and developed the land as per the draft layout. By a gift deed dated 10.05.2002 the common areas; roads, parks and open spaces-were gifted to the first respondent. In the usual course there should not be any objection for release of the final layout under sub-section (7) of Section 13 of the A.P.Urban Areas (Development) Act, 1975.

It appears there is a small temple known as Sri Ramalingeshwara Swamy Devasthanam, adjacent to Survey no.24/1. There is a 12 feet wide WBM road to a length of 70 meters from the main road to the temple, which is situated in Survey No.24/2. The temple Committee instituted a suit being O.S.No.699 of 2002 seeking a permanent injunction against the petitioner from interfering with the road, which is allegedly in possession of the temple committee. The petitioner herein is arrayed as defendant No.1 and the first respondent is arrayed as defendant No.6. The petitioner filed a written statement opposing the suit and *inter alia* contending that the petitioner is not interfering with the road lead from the temple to the highway and that there is already 40 feet wide BT road at the place. The first respondent also filed a written statement and the suit is pending. When the petitioner approached the first respondent for release of the final layout, the first respondent sent a communication dated 29.11.2002 informing the petitioner that final layout is kept abeyance in view of the pendency of the suit.

After receiving notice, the Secretary of HUDA filed a counter-affidavit. The various averments made in the petitioner's affidavit are not denied. It is stated that the layout is withheld, as the suit is pending.

The matter was listed yesterday at the interlocutory stage for passing orders in W.P.M.P.No.30479 of 2003. As short point is involved, the matter was heard finally,

and is being disposed of at interlocutory stage.

The attitude of HUDA in keeping the final layout in abeyance is *ex facie* irrational and arbitrary. Sri Ramalingeshwara Swamy Devasthanam Committee, Hayath Nagar, filed a suit praying for perpetual injunction against the petitioner and three others restraining them from interfering with peaceful possession of suit schedule land, which is a road measuring 70 meters in length and 30 feet in width. The same is in no manner concerned with the release or non-release of the final layout in favour of the petitioner. Secondly, a copy of the written statement filed by the first respondent herein (as defendant No.6) in O.S.No.699 of 2002 on the file of the Principal Junior Civil Judge, East & North, L.B.Nagar, Ranga Reddy District is placed before me. Para No.4 of the written statement of the HUDA reads as follows.

The defendant in reply to para No.7 submits that the defendant No.1 has met the requirements as per layout rules and an alternative 40'-0" wide established road with B.T. surface have been formed to give direct access to the temple in the place of narrow 12'-0" wide road available. Further, the defendant No.1 also left/addition land (though it is not required as per rules) for future expansion of temple purpose which is justified and encouraged for betterment of future development of this colony and also it is as per rules.

A reading of the above would show that HUDA also opposed the suit and did not raise any objection regarding contention of the petitioner herein. Therefore, I have no manner of doubt to hold that the communication being letter No.3957/MP2/H/2002, dated 29.11.2002 was issued without any application of mind. The HUDA failed to discharge its statutory duty without any reason and therefore, it should be burdened with heavy exemplary costs.

Accordingly, this Writ Petition is allowed. A *Mandamus* shall issue directing first respondent to release the final layout in respect of Acs.7.50 in Survey Nos.24/1 and 25P in Khalsa Hayath Nagar within a period of one week from the date of receipt of a copy of this order. The first respondent shall pay costs and exemplary costs fixed at Rs.10,000/- (Rupees ten thousand only) to the petitioner.

(V.V.S.RAO, J)

23rd July 2004

NOTE: CC today.

B/o

RRB

ASSISTANT REGISTRAR

//True Copy

SECTION OFFICER

Copies to:

1. The Vice-Chairman, Hyderabad Urban Development Authority, 1-8-323, Paiga Place, Police Lines, Secunderabad.
2. The Commissioner, L.B.Nagar Municipality, Saroornagar, Ranga Reddy District.
3. Two CD copies.